

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ITC MIDWEST LLC, Petitioner, v. IOWA UTILITIES BOARD, A DIVISION OF THE DEPARTMENT OF COMMERCE, STATE OF IOWA, Respondent	Case No. CVCV063439 CVCV064019 UNOPPOSED MOTION TO CONSOLIDATE
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UNOPPOSED MOTION TO CONSOLIDATE

On April 7, 2022, ITC Midwest LLC (“ITC Midwest”) filed an appeal of an Order in Iowa Utilities Board (“Board”) docket E-21340. That docket pertains to ITC Midwest’s application for renewal, called an “extension” in the parlance of the Board’s rules, of its 25-year franchise to construct, operate and maintain an electric transmission line in Iowa. The March 11, 2022 Order, titled “Order Requiring Amendment to Electric Franchise,” from which ITC Midwest initially appealed made a clear determination and declaration that prior to ITC Midwest *extending* its franchise, it would first have to *amend* its franchise to reflect the addition of a substation along the line franchised in E-21340. ITC Midwest’s appeal of the March 11 Order in E-21340 is referred to herein as “Appeal #1.”

After the appeal was filed, however, on May 4, 2022, in the same E-21340 docket, the Board entered another Order. The Board stated that it would grant the extension – but it still argued that it would be proper to require an amendment. ITC Midwest moved to reconsider; the Board denied reconsideration and ITC Midwest on July 15, 2022 appealed this latter May 4 Order and denial of reconsideration based in part on the ruling in *Christiansen v. Iowa Bd. of Educ. Examiners*, 831 N.W.2d 179 (Iowa 2013) that the Board is divested of jurisdiction to act

further on the issue on appeal as soon as that appeal is filed. Accordingly, ITC Midwest contends, while the Board could address the extension as a collateral issue, it could no longer address the potential requirement of an amendment – the subject of Appeal #1. ITC Midwest’s appeal of this second, May 4 Order in docket E-21340 is referred to herein as “Appeal #2.”

Under the discussion in *Christensen* of timing and its impact on jurisdiction, it appears that ITC Midwest could not merely amend Appeal #1 to account for its concerns about the subsequent May 4 Order. ITC Midwest’s only option was to file a second separate appeal, Appeal #2. To avoid confusion, inefficiency, and potentially inconsistent results, and as both appeals pertain to the same underlying docket, ITC Midwest believes it benefits the Court and the parties for the two above-captioned appeals to be consolidated.

Counsel for ITC Midwest has conferred with counsel for respondent Iowa Utilities Board, and represents that the Board, without waiving any substantive arguments regarding either appeal, does not oppose such consolidation.

WHEREFORE, ITC Midwest respectfully requests the Court grant this unopposed Motion to Consolidated the appeals docketed as Case No. CVCV063439 and No. CVCV064019.

Respectfully submitted this 22nd day of July, 2022.

By: /s/ Bret A. Dublinske
Bret A. Dublinske (AT0002232)
Kristy Dahl Rogers (AT0012773)
FREDRIKSON & BYRON, P.A.
111 East Grand Avenue, Suite 301
Des Moines, IA 50309
Telephone: (515) 242-8900
Facsimile: (515) 242-8950
Email: bdublinske@fredlaw.com
Email: krogers@fredlaw.com

**ATTORNEYS FOR ITC MIDWEST,
LLC**

CERTIFICATE OF SERVICE

The undersigned certifies the foregoing document was electronically filed with the Clerk of Court using the Electronic Document Management System (EDMS) on July 22, 2022 which will send a notice of electronic filing to all registered counsel of record.

/s/ Bret A. Dublinske
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